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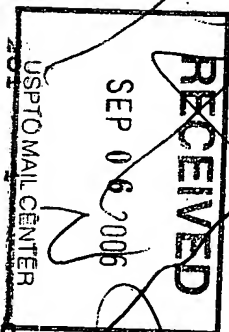
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 Alexandria Street  
Alexandria, VA 22314

In re Application of:	:	
MATTHIJSSE, Pieter, et al.	:	
U.S. Application No.: 10/509,684	:	COMMUNICATION REGARDING
PCT No.: PCT/NL03/00261	:	THIRD SUBMISSION UNDER
International Filing Date: 07 April 2003	:	37 CFR 1.42
Priority Date: 10 April 2002	:	
Attorney's Docket No.: 260119US6PCT	:	
For: METHOD AND DEVICE FOR	:	
MANUFACTURING OPTICAL	:	
PREFORMS, AS WELL AS THE	:	
OPTICAL FIBRES OBTAINED	:	
THEREWITH	:	

This communication is issued in response to applicants' "Response To Communication Regarding Submission Under 37 CFR 1.42" filed 21 July 2006. No petition fee is required.

**BACKGROUND**

The procedural background for this application is set forth in the communications mailed herein on 28 October 2005 and 09 March 2006.

The most recent communication, mailed 09 March 2006, rejected the declaration filed on 28 December 2005 for failure to satisfy the requirements of 37 CFR 1.42 and 37 CFR 1.497. Specifically, the Communication stated that the declaration filed on 28 December 2005 failed to adequately identify the person executing the declaration on behalf of the deceased inventor, failed to clearly identify the citizenship of the deceased inventor and the citizenship, mailing address and residence of the deceased inventor's heir, and was not accompanied by a clear statement that the person executing the declaration on behalf of the deceased heir was the sole heir of the inventor.

On 21 July 2006, applicant filed the "Response To Communication Regarding Submission Under 37 CFR 1.42" considered herein, accompanied by a revised declaration. The response included payment for a two-month extension of time. However, because a response to the previous communication was due on 09 May 2006, a three-month extension of time is required for the 21 July 2006 submission to be considered timely.

Deposit Account No. 15-0030 will be charged the additional fee necessary for the three-month extension.<sup>1</sup>

### DISCUSSION

The revised declaration filed by applicants on 21 July 2006 is executed by Johanna Catharina van Lierop JANSEN as the sole heir of the deceased inventor, clearly identifies the heir and, in combination with the previously filed declaration materials, provided all required information. Acceptance of the revised declaration under 37 CFR 1.42 and 1.497 is therefore appropriate.

The submission of the declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by applicable law to be appointed. If this interpretation is incorrect, applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

### CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Henrikus Lambertus Maria JANSEN is **GRANTED**.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 July 2006.



Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0459

Enclosure:

- Copy of 09 March 2006 "Communication Regarding Second Submission Under 37 CFR 1.42"

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<sup>1</sup> It is noted that applicants' 21 July 2006 submission includes a copy of the communication mailed by this Office on 28 October 2005, which appears to have a mail date of 23 March 2006. However, the most recent communication of record in the present application is the communication mailed 09 March 2006 in response to applicants' 28 December 2005 submission; a copy of this communication, with the 09 March 2006 mail-date indicated thereon, is included with this decision.

09 MAR 2006

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For: METHOD AND DEVICE FOR	:	
MANUFACTURING OPTICAL	:	
PREFORMS, AS WELL AS THE	:	
OPTICAL FIBRES OBTAINED	:	
THEREWITH	:	

In a Communication mailed by this Office on 28 October 2005, the declaration filed on 18 August 2005 was dismissed for failure to satisfy the requirements of 37 CFR 1.42 and 1.497. Specifically, the Communication noted that the declaration was not executed on behalf of the deceased inventor by his legal representative and it did not include all the information required by 37 CFR 1.497. The Communication required applicants to submit "an oath or declaration executed on behalf of the deceased inventor in compliance with 37 CFR 1.42 and including all the information required under 37 CFR 1.497 (including the citizenship, mailing address and residence information for **both** the deceased inventor and the legal representative, as discussed above)."

On 28 December 2005, applicants filed a response to the previous Communication, treated herein as a second submission under 37 CFR 1.42 and 1.497. The submission included a copy of a declaration executed on behalf of the deceased inventor by a "Ms. Jansen," identified on the declaration as the "heir" of the deceased inventor. The submission also includes a letter that is described as "confirming that Mr. Henrikus Lambertus Maria JANSEN has no legal representative and that the heir listed on the declaration is Mr. Jansen's only heirs."

The declaration filed on 28 December 2005 does not satisfy the requirements of 37 CFR 1.42 and 1.497, as discussed in the previous decision. Specifically, the declaration fails to adequately identify the person executing the declaration on behalf of the deceased inventor ("Ms. Jansen" is not adequate identification of the heir; the heir's first name must also be listed; see 37 CFR 1.63(a)(2); 35 U.S.C. 117). In addition, the declaration does not provide separate citizenship information for the deceased inventor and the heir, and it is not clear whether the address and residence information on the declaration is for the heir, as required, or the deceased

inventor (the signature box used by the legal representative lists one set of information, but it is not clear if this information is for the deceased inventor or the legal representative).

Finally, while the letter provided indicates that the person executing the declaration is the "widow and heir" of the deceased inventor, it does not expressly indicate that she is the sole heir of the deceased inventor, as required.

Because the declaration does not include all the information required by 37 CFR 1.42 and 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.42 and 37 CFR 1.497.

The declaration filed on 28 December 2005 under 37 CFR 1.42 is **REJECTED** without prejudice.

Applicant have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

A proper response must include a revised declaration executed on behalf of the deceased inventor containing all the information required under 37 CFR 1.42 and 1.497, including, as discussed above, the full name, citizenship, residence, and mailing address of the legal representative (or all heirs, if appropriate), the citizenship of the deceased inventor, a statement of the relationship of the person signing to the deceased inventor (i.e., "[First name] JANSEN, sole heir of deceased inventor Henrikus Lambertus Maria JANSEN"), and all other information and statements required by 37 CFR 1.497 (for example, the name of all other inventors, etc.).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0459